

106TH CONGRESS
2D SESSION

H. R. 4919

To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2000

Mr. GILMAN (for himself and Mr. GEJDENSON) introduced the following bill;
which was referred to the Committee on International Relations

JULY 24, 2000

Committee on International Relations discharged; considered under suspension
of the rules and passed

A BILL

To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Defense and Security
5 Assistance Act of 2000”.

1 **TITLE I—SECURITY ASSISTANCE**

2 **SEC. 101. ADDITIONS TO UNITED STATES WAR RESERVE**
3 **STOCKPILES FOR ALLIES.**

4 Section 514(b)(2) of the Foreign Assistance Act of
5 1961 (22 U.S.C. 2321h(b)(2)) is amended to read as fol-
6 lows:

7 “(2)(A) The value of such additions to stock-
8 piles of defense articles in foreign countries shall not
9 exceed \$50,000,000 for fiscal year 2001.

10 “(B) Of the amount specified in subparagraph
11 (A) for fiscal year 2001, not more than \$50,000,000
12 may be made available for stockpiles in the Republic
13 of Korea.”.

14 **SEC. 102. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS**
15 **DEFENSE ARTICLES IN THE WAR RESERVE**
16 **STOCKPILES FOR ALLIES TO ISRAEL.**

17 (a) TRANSFERS TO ISRAEL.—

18 (1) AUTHORITY.—Notwithstanding section 514
19 of the Foreign Assistance Act of 1961 (22 U.S.C.
20 2321h), the President is authorized to transfer to
21 Israel, in return for concessions to be negotiated by
22 the Secretary of Defense, with the concurrence of
23 the Secretary of State, any or all of the items de-
24 scribed in paragraph (2).

1 (2) ITEMS COVERED.—The items referred to in
2 paragraph (1) are munitions, equipment, and mate-
3 rial such as armor, artillery, automatic weapons am-
4 munition, and missiles that—

5 (A) are obsolete or surplus items;

6 (B) are in the inventory of the Department
7 of Defense;

8 (C) are intended for use as reserve stocks
9 for Israel; and

10 (D) as of the date of enactment of this
11 Act, are located in a stockpile in Israel.

12 (b) CONCESSIONS.—The value of concessions nego-
13 tiated pursuant to subsection (a) shall be at least equal
14 to the fair market value of the items transferred. The con-
15 cessions may include cash compensation, services, waiver
16 of charges otherwise payable by the United States, and
17 other items of value.

18 (c) ADVANCE NOTIFICATION OF TRANSFER.—Not
19 less than 30 days before making a transfer under the au-
20 thority of this section, the President shall transmit to the
21 Committee on Foreign Relations of the Senate, and the
22 Committee on International Relations of the House of
23 Representatives a notification of the proposed transfer.
24 The notification shall identify the items to be transferred
25 and the concessions to be received.

1 (d) EXPIRATION OF AUTHORITY.—No transfer may
 2 be made under the authority of this section 3 years after
 3 the date of enactment of this Act.

4 **SEC. 103. EXCESS DEFENSE ARTICLES FOR MONGOLIA.**

5 (a) USES FOR WHICH FUNDS ARE AVAILABLE.—
 6 Notwithstanding section 516(e) of the Foreign Assistance
 7 Act of 1961 (22 U.S.C. 2321j(e)), during each of the fiscal
 8 years 2000 and 2001, funds available to the Department
 9 of Defense may be expended for crating, packing, han-
 10 dling, and transportation of excess defense articles trans-
 11 ferred under the authority of section 516 of that Act to
 12 Mongolia.

13 (b) CONTENT OF CONGRESSIONAL NOTIFICATION.—
 14 Each notification required to be submitted under section
 15 516(f) of the Foreign Assistance Act of 1961 (22 U.S.C.
 16 2321j(f)) with respect to a proposed transfer of a defense
 17 article described in subsection (a) shall include an esti-
 18 mate of the amount of funds to be expended under sub-
 19 section (a) with respect to that transfer.

20 **SEC. 104. SENSE OF CONGRESS RELATING TO MILITARY**
 21 **EQUIPMENT FOR THE PHILIPPINES.**

22 (a) IN GENERAL.—It is the sense of Congress that
 23 the United States Government should work with the Gov-
 24 ernment of the Republic of the Philippines to enable that
 25 Government to procure military equipment that can be

1 used to upgrade the capabilities and to improve the quality
2 of life of the armed forces of the Philippines.

3 (b) **MILITARY EQUIPMENT.**—Military equipment de-
4 scribed in subsection (a) should include—

5 (1) naval vessels, including amphibious landing
6 crafts, for patrol, search-and-rescue, and transport;

7 (2) F–5 aircraft and other aircraft that can as-
8 sist with reconnaissance, search-and-rescue, and re-
9 supply;

10 (3) attack, transport, and search-and-rescue
11 helicopters; and

12 (4) vehicles and other personnel equipment.

13 **SEC. 105. ANNUAL MILITARY ASSISTANCE REPORT.**

14 Section 655(b)(3) of the Foreign Assistance Act of
15 1961 (22 U.S.C. 2415(b)(3)) is amended by inserting be-
16 fore the period at the end the following: “, including those
17 defense articles that were exported”.

18 **SEC. 106. REQUIREMENTS RELATING TO COUNTRY EXEMP-**
19 **TIONS FOR LICENSING OF DEFENSE ITEMS**
20 **FOR EXPORT TO FOREIGN COUNTRIES.**

21 (a) **REQUIREMENTS OF EXEMPTION.**—Section 38 of
22 the Arms Export Control Act (22 U.S.C. 2778) is amend-
23 ed by adding at the end the following:

1 “(j) REQUIREMENTS RELATING TO COUNTRY EX-
2 EMPTIONS FOR LICENSING OF DEFENSE ITEMS FOR EX-
3 PORT TO FOREIGN COUNTRIES.—

4 “(1) REQUIREMENT FOR BILATERAL AGREE-
5 MENT.—

6 “(A) IN GENERAL.—The President may
7 utilize the regulatory or other authority pursu-
8 ant to this Act to exempt a foreign country
9 from the licensing requirements of this Act with
10 respect to exports of defense items only if the
11 United States Government has concluded an
12 agreement described in paragraph (2) with the
13 foreign country that is legally-binding as a mat-
14 ter of domestic and international law on both
15 the United States and that country.

16 “(B) EXCEPTION.—The requirement to
17 conclude a bilateral agreement in accordance
18 with subparagraph (A) shall not apply with re-
19 spect to an exemption for Canada from the li-
20 censing requirements of this Act for the export
21 of defense items.

22 “(2) REQUIREMENTS OF BILATERAL AGREE-
23 MENT.—A bilateral agreement referred to paragraph
24 (1)—

1 “(A) shall, at a minimum, require the for-
2 eign country, as necessary, to revise its policies
3 and practices, and promulgate or enact nec-
4 essary modifications to its laws and regulations
5 to establish an export control regime that is at
6 least comparable to United States law, regula-
7 tion, and policy regarding—

8 “(i) handling of all United States-ori-
9 gin defense items exported to the foreign
10 country, including prior written United
11 States Government approval for any reex-
12 ports to third countries;

13 “(ii) end-use and retransfer control
14 commitments, including securing binding
15 end-use and retransfer control commit-
16 ments from all end-users, including such
17 documentation as is needed in order to en-
18 sure compliance and enforcement with re-
19 spect to such United States-origin defense
20 items;

21 “(iii) establishment of a procedure
22 comparable to a ‘watchlist’ (if such a
23 watchlist does not exist) and full coopera-
24 tion with United States Government law
25 enforcement and intelligence agencies to

1 allow for sharing of export and import doc-
2 umentation and background information
3 on foreign businesses and individuals em-
4 ployed by or otherwise connected to those
5 businesses; and

6 “(iv) establishment of a list of con-
7 trolled defense items to ensure coverage of
8 those items to be exported under the ex-
9 emption; and

10 “(B) should, at a minimum, require the
11 foreign country, as necessary, to revise its poli-
12 cies and practices, and promulgate or enact
13 necessary modifications to its laws and regula-
14 tions to establish an export control regime that
15 is at least comparable to United States law,
16 regulation, and policy regarding—

17 “(i) controls on the export of tangible
18 or intangible technology, including via fax,
19 phone, and electronic media;

20 “(ii) appropriate controls on unclassi-
21 fied information exported to foreign na-
22 tionals;

23 “(iii) controls on arms trafficking and
24 brokering; and

1 “(iv) violations and penalties of export
2 control laws.

3 “(3) ADVANCE NOTIFICATION.—Not less than
4 30 days before authorizing an exemption for a for-
5 eign country from the licensing requirements of this
6 Act for the export of defense items, the President
7 shall transmit to the Committee on International
8 Relations of the House of Representatives and the
9 Committee on Foreign Relations of the Senate a no-
10 tification that—

11 “(A) the United States has entered into a
12 bilateral agreement with that foreign country
13 satisfying all requirements set forth in para-
14 graph (2);

15 “(B) the foreign country has promulgated
16 or enacted all necessary modifications to its
17 laws and regulations to comply with its obliga-
18 tions under the bilateral agreement with the
19 United States; and

20 “(C) confirms that the appropriate con-
21 gressional committees will continue to receive
22 notifications pursuant to the authorities, proce-
23 dures, and practices of section 36 of this Act
24 for defense exports to a foreign country to
25 which that section would apply and without re-

1 gard to any form of defense export licensing ex-
2 emption otherwise available for that country.

3 “(4) DEFINITIONS.—In this section:

4 “(A) DEFENSE ITEM.—The term ‘defense
5 item’ means defense articles, defense services,
6 and related technical data.

7 “(B) APPROPRIATE CONGRESSIONAL COM-
8 MITTEES.—The term ‘appropriate congressional
9 committees’ means—

10 “(i) the Committee on International
11 Relations and the Committee on Appro-
12 priations of the House of Representatives;
13 and

14 “(ii) the Committee on Foreign Rela-
15 tions and the Committee on Appropriations
16 of the Senate.”.

17 (b) NOTIFICATION OF EXEMPTION.—Section 38(f) of
18 the Arms Export Control Act (22 U.S.C. 2778(f)) is
19 amended—

20 (1) by inserting “(1)” after “(f)”; and

21 (2) by adding at the end the following:

22 “(2) The President may not authorize an exemption
23 for a foreign country from the licensing requirements of
24 this Act for the export of defense items under subsection
25 (j) or any other provision of this Act until 45 days after

1 the date on which the President has transmitted to the
2 Committee on International Relations of the House of
3 Representatives and the Committee on Foreign Relations
4 of the Senate a notification that includes—

5 “(A) a description of the scope of the exemp-
6 tion, including a detailed summary of the defense ar-
7 ticles, defense services, and related technical data
8 proposed to be exported under the exemption; and

9 “(B) a determination by the Attorney General
10 that the bilateral agreement requires sufficient docu-
11 mentation relating to the export of United States de-
12 fense articles, defense services, and related technical
13 data under an exemption which will be compiled and
14 maintained in order to facilitate law enforcement ef-
15 forts to detect, prevent, and prosecute criminal viola-
16 tions of any provision of this Act, including the ef-
17 forts on the part of countries and factions engaged
18 in international terrorism to illicitly acquire sophisti-
19 cated United States weaponry.”.

20 (c) NOTIFICATION RELATING TO EXPORT OF COM-
21 MERCIAL COMMUNICATIONS SATELLITE.—Section
22 36(c)(1) of the Arms Export Control Act (22 U.S.C.
23 2776(c)(1)) is amended in the first sentence by inserting
24 at the end before the period the following: “, except that
25 a certification shall not be required in the case of an appli-

1 cation for a license for export of a commercial communica-
2 tions satellite designated on the United States Munitions
3 List for launch from, and by nationals of, the United
4 States, or the territory of a member country of the North
5 Atlantic Treaty Organization (NATO), the Russian Fed-
6 eration, Ukraine, Australia, Japan, or New Zealand”.

7 **SEC. 107. REPORT ON GOVERNMENT-TO-GOVERNMENT**
8 **ARMS SALES END-USE MONITORING PRO-**
9 **GRAM.**

10 Not later than 90 days after the date of the enact-
11 ment of this Act, the President shall prepare and transmit
12 to the Committee on International Relations and the Com-
13 mittee on Foreign Relations of the Senate a report that
14 contains a summary of the status of the efforts of the De-
15 fense Security Cooperation Agency to implement the End-
16 Use Monitoring Enhancement Plan relating to govern-
17 ment-to-government transfers of defense articles, defense
18 services, and related technologies.

19 **SEC. 108. WAIVER OF CERTAIN COSTS.**

20 Notwithstanding any other provision of law, the
21 President may waive the requirement to impose an appro-
22 priate charge for a proportionate amount of any non-
23 recurring costs of research, development, and production
24 under section 21(e)(1)(B) of the Arms Export Control Act
25 (22 U.S.C. 2761(e)(1)(B)) for the November 1999 sale

1 of 5 UH–60L helicopters to the Republic of Colombia in
2 support of counternarcotics activities.

3 **TITLE II—TRANSFERS OF NAVAL**
4 **VESSELS**

5 **SEC. 201. AUTHORITY TO TRANSFER NAVAL VESSELS TO**
6 **CERTAIN FOREIGN COUNTRIES.**

7 (a) BRAZIL.—The President is authorized to transfer
8 to the Government of Brazil the “THOMASTON” class
9 dock landing ships ALAMO (LSD 33) and HERMITAGE
10 (LSD 34) and the “GARCIA” class frigates BRADLEY
11 (FF 1041), DAVIDSON (FF 1045), SAMPLE (FF
12 1048), and ALBERT DAVID (FF 1050). Such transfers
13 shall be on a grant basis under section 516 of the Foreign
14 Assistance Act of 1961 (22 U.S.C. 2321j).

15 (b) CHILE.—The President is authorized to transfer
16 to the Government of the Chile the “OLIVER HAZARD
17 PERRY” class guided missile frigates WADSWORTH
18 (FFG 9) and ESTOCIN (FFG 15). Such transfers shall
19 be on a combined lease-sale basis under sections 61 and
20 21 of the Arms Export Control Act (22 U.S.C. 2796,
21 2761).

22 (c) GREECE.—The President is authorized to trans-
23 fer to the Government of Greece the “KNOX” class frig-
24 ates VREELAND (FF 1068) and TRIPPE (FF 1075).

1 Such transfers shall be on a grant basis under section 516
2 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

3 (d) TURKEY.—The President is authorized to trans-
4 fer to the Government of Turkey the “OLIVER HAZARD
5 PERRY” class guided missile frigates JOHN A MOORE
6 (FFG 19) and FLATLEY (FFG 21). Such transfers shall
7 be on a combined lease-sale basis under sections 61 and
8 21 of the Arms Export Control Act (22 U.S.C. 2796,
9 2761).

10 **SEC. 202. INAPPLICABILITY OF AGGREGATE ANNUAL LIM-**
11 **TATION ON VALUE OF TRANSFERRED EXCESS**
12 **DEFENSE ARTICLES.**

13 In the case of the transfer of a naval vessel author-
14 ized under section 201 of this Act to be transferred on
15 a grant basis under section 516 of the Foreign Assistance
16 Act of 1961 (22 U.S.C. 2321j), the value of the vessel
17 transferred shall not be included for purposes of sub-
18 section (g) of that section in the aggregate value of excess
19 defense articles transferred to countries under that section
20 in any fiscal year.

21 **SEC. 203. COSTS OF TRANSFERS.**

22 Any expense incurred by the United States in connec-
23 tion with a transfer authorized by this title shall be
24 charged to the recipient.

1 **SEC. 204. CONDITIONS RELATING TO COMBINED LEASE-**
2 **SALE TRANSFERS.**

3 A transfer of a vessel on a combined lease-sale basis
4 authorized by section 201 shall be made in accordance
5 with the following requirements:

6 (1) The President may initially transfer the ves-
7 sel by lease, with lease payments suspended for the
8 term of the lease, if the country entering into the
9 lease for the vessel simultaneously enters into a for-
10 eign military sales agreement for the transfer of title
11 to the vessel.

12 (2) The President may not deliver to the pur-
13 chasing country title to the vessel until the purchase
14 price of the vessel under such a foreign military
15 sales agreement is paid in full.

16 (3) Upon payment of the purchase price in full
17 under such a sales agreement and delivery of title to
18 the recipient country, the President shall terminate
19 the lease.

20 (4) If the purchasing country fails to make full
21 payment of the purchase price in accordance with
22 the sales agreement—

23 (A) the sales agreement shall be imme-
24 diately terminated;

25 (B) the suspension of lease payments
26 under the lease shall be vacated; and

1 (C) the United States shall be entitled to
2 retain all funds received on or before the date
3 of the termination under the sales agreement,
4 up to the amount of lease payments due and
5 payable under the lease and all other costs re-
6 quired by the lease to be paid to that date.

7 (5) If a sales agreement is terminated pursuant
8 to paragraph (4), the United States shall not be re-
9 quired to pay any interest to the recipient country
10 on any amount paid to the United States by the re-
11 cipient country under the sales agreement and not
12 retained by the United States under the lease.

13 **SEC. 205. FUNDING OF CERTAIN COSTS OF TRANSFERS.**

14 There is authorized to be appropriated to the Defense
15 Vessels Transfer Program Account such funds as may be
16 necessary to cover the costs (as defined in section 502 of
17 the Congressional Budget Act of 1974 (2 U.S.C. 661a))
18 of the lease-sale transfers authorized by section 201.
19 Funds appropriated pursuant to the authorization of ap-
20 propriations under preceding sentence for the purpose de-
21 scribed in such sentence may not be available for any other
22 purpose.

1 **SEC. 206. REPAIR AND REFURBISHMENT IN UNITED STATES**

2 **SHIPYARDS.**

3 To the maximum extent practicable, the President
4 shall require, as a condition of the transfer of a vessel
5 under section 201, that the country to which the vessel
6 is transferred have such repair or refurbishment of the
7 vessel as is needed, before the vessel joins the naval forces
8 of that country, performed at a shipyard located in the
9 United States, including a United States Navy shipyard.

10 **SEC. 207. SENSE OF CONGRESS REGARDING TRANSFER OF**

11 **NAVAL VESSELS ON A GRANT BASIS.**

12 It is the sense of Congress that naval vessels author-
13 ized under section 201 of this Act to be transferred to
14 foreign countries on a grant basis under section 516 of
15 the Foreign Assistance Act of 1961 (22 U.S.C. 2321j)
16 should be so transferred only if the United States receives
17 appropriate benefits from such countries for transferring
18 the vessel on a grant basis.

19 **SEC. 208. EXPIRATION OF AUTHORITY.**

20 The authority granted by section 201 of this Act shall
21 expire 2 years after the date of enactment of this Act.

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